

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION

JESSICA HORMANDER and MINOR CHILD,  
AMANDA HORMANDER, by and through  
her next friend, OLA HORMANDER,  
Plaintiffs

V.

NO. 3:94CV139-B-A

BONNIE RICHMOND and MISSISSIPPI  
DEPARTMENT OF HUMAN SERVICES,  
Defendants

**MEMORANDUM OPINION**

This cause comes before the court upon the defendants' motions to dismiss or, in the alternative, to abstain. The court has duly considered the parties' memoranda and exhibits and is ready to rule.

**FACTS**

The plaintiff Jessica Hormander (the "plaintiff") has an infant child, Amanda Anneli Nonamaker (the "child"). In May of 1994, the plaintiff placed the child in the temporary care of the child's uncle, George Nonamaker. Approximately one week after the uncle received the child, he took her to the home of his sister, Norne Nonamaker, the child's aunt.

At this point, the facts become disputed. The court will accept the plaintiff's version for purposes of this opinion only, since she is the non-movant. The plaintiff alleges that the aunt took the child to the Mississippi Department of Human Services, where the defendant Richmond worked. Richmond took the child home with her, and two months later filed suit in the Chancery Court of Desoto County, Mississippi, for custody of the child.

The plaintiff filed this action in September of 1994, charging the defendants with:

- (1) refusing to return custody of the child to the mother;
- (2) violating the statutory law of the State of Mississippi by failing to have a custody hearing on or about June 6, 1994 (the date Richmond took the child to her home); and
- (3) conspiring to deny custody of the minor child to the plaintiff.

The plaintiff claims that her action is brought pursuant to 42 U.S.C. §§ 1983 and 1988, to protect rights found in the Amendments to the United States Constitution. The plaintiff seeks compensatory and punitive damages, as well as a declaratory judgment that the defendants' actions violated her civil rights.

#### **LAW**

The plaintiff's complaint alleges jurisdiction under two federal statutes, 42 U.S.C. §§ 1983 and 1988. Section 1988 does not confer an independent right of action, but rather allows for the recovery of attorney's fees by the prevailing party in an action brought pursuant to a number of other federal statutes, including § 1983. Section 1983 allows parties to bring a civil action for the deprivation of rights secured by the United States Constitution.

Although the plaintiff claims jurisdiction under § 1983, and seeks a declaratory judgment that the defendants' actions have violated her civil rights, nowhere in the complaint does the plaintiff specifically charge the defendants with a violation of any constitutional right. The plaintiff's causes of action, as

listed above, fail to accuse the defendants of any wrongdoing that would give rise to a claim under a federal statute.

The Fifth Circuit maintains a heightened pleading requirement for complaints charging violations of a federal civil rights statute. Colle v. Brazos County, 981 F.2d 237, 243 (5th Cir. 1993). Section 1983 plaintiffs must state with factual detail and particularity the basis of their claim. Streetman v. Jordan, 918 F.2d 555, 556-557 (5th Cir. 1990). The pleadings in a § 1983 action must demonstrate specifically how the plaintiff's civil rights have been violated by each defendant. Maxwell v. Henry, 815 F. Supp. 213, 214 (S.D. Tex. 1993).

The plaintiff's complaint fails to meet the heightened pleading requirements necessary to state a cause of action under § 1983. The plaintiff fails to identify even in a general manner which rights she claims to have been deprived of, much less specifically demonstrate with factual detail how those rights have been violated. The plaintiff vaguely makes reference to a deprivation of due process in her briefs in response to these motions, but fails to go into any detail whatsoever. The court finds that the plaintiff has wholly failed to set forth with any particularity the basis behind her alleged federal claims.

#### **CONCLUSION**

For the foregoing reasons, the court finds that the defendants' motions to dismiss should be granted.

An order will issue accordingly.

THIS, the \_\_\_\_\_ day of August, 1995.

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NEAL B. BIGGERS, JR.  
UNITED STATES DISTRICT JUDGE